



26 August 2019

To: Ms. Kathleen O'Kane
Black Economy Division
The Treasury
Langton Crescent
PARKES ACT 2600
Sent via email: blackeconomy@treasury.gov.au

Re: Currency (Restrictions on the Use of Cash) Bill 2019

Dear Kathleen,

We refer to the Public Consultation for the Economy-wide Cash Payment Limit and the development of the Currency (Restrictions on the Use of Cash) Bill 2019.

We summarise our feedback below for Treasury's consideration in the following brief and frank submission in the context of our particular sector - the remittance sector.

About mHITs Limited

Our company, mHITs Limited operates the multi-award winning mobile remittance service Rocket Remit. The service specializes in person to person cross-border remittance payments to developing countries to the worlds 2.5B unbanked – people who do not have access to a bank account. mHITs Limited pioneered mobile remittance was the first service in the world to provide instantaneous cross-border digital remittance to a mobile money account. See www.rocketremit.com.

mHITs and Rocket Remit are registered with AUSTRAC as a registered remittance business.

Another case of poorly drafted legislation with damaging unintended consequences

This is not the first instance legislation has been proposed which has severe unintended consequences.

We refer to legislation passed under the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* which has been largely miss-interpreted by Australian Banks to mean they cannot support AUSTRAC registered remittance businesses and closed their bank accounts. This in turn has caused the collapse of the Australian remittance industry sending financial intelligence information and transaction monitoring and reporting underground.

Our company mHITs Limited and our remittance service, has been crippled by bank de-risking with all of our bank accounts closed.



The ambiguity created by the *Anti-Money Laundering and Counter Terrorism Financing Act 2006*, the lack of regulatory guidance provided with the introduction of this legislation, and the unwillingness, lack of appetite or lack of courage by Government and legislators to support the remittance industry in bank de-risking, have combined to create a perfect storm which has impacted on the lives of millions of Australians and diaspora for whom remittance essential in supporting family and community overseas.

We are very concerned the proposed cash payment limit in the proposed legislation will have similar unintended consequences which will severely impact the remittance industry and the Australian public for NO NETT GAIN.

Why AUSTRAC registered remittance businesses should be exempt from the cash payment limit

It is our primary submission that AUSTRAC registered remittance businesses **should be exempt** from the cash payment limit. While the proposed limit will not likely impact on our business, we are mindful of the impact this restriction will have on the remittance industry in Australia as a whole.

All AUSTRAC registered remitters are already a reporting entity and subject to regulatory oversight which includes mandatory KYC (Know Your Customer), customer EDD (enhanced due diligence), transaction reporting and transaction monitoring. AUSTRAC registered remittance businesses are also required to submit a Threshold Transaction Report (TTR) for transactions above AUD 10,000.00 as well as a Suspicious Matter Report (SMR) to AUSTRAC.

The reports submitted by remittance business are vital in alerting law enforcement agencies to suspicious activity. These controls are the same as those imposed on bank and are more than adequate in providing adequate mechanisms for regulators and law enforcement seeking to limit tax avoidance.

Bank de-risking necessitating the need for cash business operations

Again while our business would not be effected by the proposed limit, many registered remittance businesses can only accept cash as a form of payment due to large-scale bank de-risking of AUSTRAC registered businesses which commenced in 2013. Many businesses do not have access to bank accounts to accept payment in the form of bank transfer, and those with bank accounts do not have certainty as to how long they will have their current bank accounts will remain in place.

The proposed legislation will be the final nail in the coffin for these cash-based remittance businesses in Australia who will be unable to operate legally. These remittance business service communities and markets not serviced by or not physically addressable by the banking system. This will likely force these businesses underground.

De-Banked cash-based MTOs will continue to operate (illegally) – threshold will have no effect

Remittance is an essential lifeline for people in emerging markets where funds are sent for everyday survival including food, clothing, medicine and education expenses. Remittance is also driven by religious and social customs and is not an optional service. Regulators simply do not understand that for users of remittance



services, societal, survival and cultural obligations are more powerful than fear of breaking an unfair, unjust law or misunderstood law. We know from direct experience that some of our competitors operate informally. Their customers tell us directly that they simply do not care whether a service is legally operating or licenced correctly. For them, the ability to send funds no matter the means is paramount. In extreme cases, some countries can only receive funds via informal channels. If legal and formal avenues are cut off due to the introduction of a cash threshold limit, cash-based remittance **will simply continue anyway** – pushed underground with transactions unreported.

Loss of intelligence data – AUSTRAC will be blinded

When transactions are forced underground via informal channels, no intelligence reporting occurs to regulators. This not only effects threshold reporting but risks society to increased terrorism financing. This has the complete opposite effect directly undermining the purpose of the intended legislation – less data will be reported.

Structuring of payments likely to be used to avoid restrictions

Structuring of transactions used to avoid threshold detection is a common method used by criminals. In our experience, it does not matter what the threshold is, criminals are flexible and will simply respond and adapt their practices to re-structure their transactions to avoid detection.

AML/CTF

While we acknowledge the need for increased AML/CTF regulation, it has been our consistent position in government submissions that attempting to restrict movement of funds through reducing in money flows, is not the most effective approach for combatting AML/CTF. The size and complexity of transaction flows in the economy will continue to increase meaning a more efficient and scalable approach is to encourage increased participation by regulated entities including remittance businesses and have them **report transactions** and provide financial intelligence. Forcing in particular cash-based businesses to operate outside this reporting framework is opposite to the intended purpose of this threshold legislation.

Yours sincerely,

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